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Chairman: Mr. Wenaweser ..... (Liechtenstein)

Contents

Agenda item 106: Programme of activities of the International Decade of the World's Indigenous People (*continued*)

Agenda item 107 (a): Elimination of racism and racial discrimination (*continued*)

Agenda item 108: Right of peoples to self-determination (*continued*)

Agenda item 102: Advancement of women (*continued*)

Agenda item 105: Promotion and protection of the rights of children (*continued*)

Agenda item 106: Programme of activities of the International Decade of the World's Indigenous People (*continued*)

Agenda item 109: Human rights questions (*continued*)

(a) Implementation of human rights instruments (*continued*)

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02-67041 (E)

The meeting was called to order to 3.15 p.m.

Agenda item 106: Programme of activities of the International Decade of the World's Indigenous People (*continued*) (A/C.3/57/L.29)

Draft resolution A/C.3/57/L.29: indigenous people and issues

1. **Ms. Loemban Tobing-Klein** (Suriname), speaking on behalf of the sponsors, introduced the draft resolution.

Agenda item 107 (a): Elimination of racism and racial discrimination (*continued*) (A/C.3/57/L.32)

Draft resolution A/C.3/57/L.32: International Convention on the Elimination of All Forms of Racial Discrimination

2. **Ms. Tomić** (Slovenia) introduced the draft resolution on behalf of the sponsors listed in the document as well as Andorra, New Zealand, the Republic of Moldova and Switzerland.

3. **The Chairman** said that Belarus, Bangladesh, Croatia, the Czech Republic, Mongolia, Namibia, Panama, the Republic of Korea and Suriname had joined the sponsors of the draft resolution.

Agenda item 108: Right of peoples to self-determination (*continued*) (A/C.3/57/L.31 and L.33)

Draft resolution A/C.3/57/L.31: Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

4. **Mr. De Barros** (Secretary of the Committee) said that Sudan should be included in the list of sponsors in the English version of document A/C.3/57/L.31.

5. **Mr. Amorós Núñez** (Cuba) introduced the draft resolution on behalf of the sponsors listed in the document as well as the Comoros, Costa Rica and India.

6. **The Chairman** said that Benin, Liberia and Suriname had joined the sponsors of the draft resolution.

Draft resolution A/C.3/57/L.33: Universal realization of the right of peoples to self-determination

7. **Mr. Andrabi** (Pakistan) introduced the draft resolution on behalf of the sponsors listed in the document as well as Iraq and Kuwait.

8. **The Chairman** said that the Comoros, El Salvador and Eritrea had joined the sponsors of the draft resolution.

Agenda item 102: Advancement of women (*continued*) (A/C.3/57/L.18)

Draft resolution A/C.3/57/L.18: Situation of older women in society

9. **The Chairman** informed the Committee that the draft resolution entailed no financial implications.

10. **Ms. Loemban Tobing-Klein** (Suriname) introduced the draft resolution and **Ms. Weygel** (Sudan) read out the amendments agreed upon in informal consultations.

11. In the first preambular paragraph, the phrase "and emphasizing their obligations under the human rights instruments," should be replaced by the phrase "and guided by the purposes and principles of human rights instruments," and the remainder of that paragraph should be deleted.

12. In the second preambular paragraph, the word "and" before the words "resolution 36/4" should be deleted, and the following phrase should be added at the end of the paragraph: "and General Assembly resolution 56/126 of 25 January 2002 on the situation of older women in society".

13. After the fourth preambular paragraph, the following new paragraphs should be inserted:

> "*Recognizing* that older women outnumber older men, increasingly so with increasing age, and that the situation of older women everywhere must be a priority for policy action,
>
> "*Aware* that in order to ensure full equality between women and men it is essential to recognize the differential impact of ageing on women and men and to integrate a gender perspective into all policies, programmes and legislation,".

14. In the old sixth preambular paragraph, after the words "assistance to" the words "victims of" should be replaced by the words "those infected and affected by".

15. In the old ninth preambular paragraph, the words "in particular" before the words "older women" should be replaced by the word "including", and the phrase ", including educational opportunities" should be added at the end of the paragraph.

16. In paragraph 4, the word "the" before the words "non-governmental organizations" should be deleted and the word "concerned" after those same words should be replaced by the phrase ", where appropriate".

17. A new paragraph 5 bis should be inserted after paragraph 5, reading:

> "*Welcomes* the adoption in April 2002 by the Valencia Forum of research and academic professionals of the Research Agenda on Ageing for the Twenty-First Century, to support the implementation of the Madrid International Plan of Action on Ageing, 2002;"

18. In old paragraph 6, the word "the" before the words "non-governmental organizations" should be deleted and the word "concerned" after those same words should be replaced by the phrase ", where appropriate".

19. Old paragraph 7 should be replaced by the following paragraph: "*Calls upon* Governments and the United Nations system to ensure that the needs, perspectives and experiences of older women are reflected in all development policies and programmes;".

20. In old paragraph 8, the words "victims of" before the words "HIV/AIDS" should be replaced by the words "those infected and affected by".

21. Old paragraph 9 should be deleted and paragraph 10 and should be amended to read: "*Requests* the Secretary-General to include the situation of older women in society in his report on the follow-up to the Second World Assembly on Ageing.".

Agenda item 105: Promotion and protection of the rights of children (*continued*) (A/C.3/57/L.24/Rev.1)

Draft resolution on the girl child (A/C.3/57/L.24/Rev.1)

22. **The President** informed the Committee that the draft resolution contained no programme budget implications and recalled that, when it had been introduced, the representative of Namibia had orally deleted paragraph 16. He announced that Belarus, El Salvador, Indonesia, Panama, Poland and Uruguay had joined the sponsors of the draft resolution, namely, Andorra, Antigua and Barbuda, Australia, Austria, Azerbaijan, Belgium, Belize, Bhutan, Bolivia, Bosnia and Herzegovina, Bulgaria, Cambodia, Canada, Colombia, Costa Rica, Croatia, Cyprus, Denmark, Eritrea, Fiji, Finland, France, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Israel, Italy, Japan, Liechtenstein, Lithuania, Luxembourg, Malaysia, Malta, Monaco, Nepal, Netherlands, New Zealand, Norway, Paraguay, Peru, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Slovenia, Spain, Sri Lanka, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Tunisia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, Venezuela, Viet Nam and Yugoslavia.

23. **Mr. McCamman** (United States of America) said that his delegation had requested a vote on paragraph 1 of the draft resolution. Speaking in explanation of vote, he said that the United States was not a party to either of the conventions mentioned in that paragraph, did not agree that there was a need for universal ratification of the conventions and was not obliged to implement their provisions. Although the United States was not a party to the Convention on the Rights of the Child, in practice, the rights and protections enjoyed by children in the United States met or exceeded those protections enumerated in the Convention, through a multi-tiered system of national, state and local laws. The United States would have preferred to have had its legal position taken into account. Decisions on accession to a convention pertained to the sovereignty of each State. His delegation appreciated the efforts of Namibia and the South African Development Community to seek a compromise that would take into account the views of the United States, even though those efforts had not been successful. Given the situation, his delegation was obliged to request a vote on paragraph 1, in order to record its opposition to the way in which the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women were referred to in the draft resolution. Bearing in mind its vote against paragraph 1, the United States would allow the draft resolution as a whole to be adopted without a vote.

24. **The Chairman** said that, at the request of the representative of the United States of America, a

recorded vote would be taken on paragraph 1 of draft resolution A/C.3/57/L.24/Rev.1.

25. *At the request of the representative of the United States of America, a recorded vote was taken on paragraph 1 of draft resolution A/C.3/57/L.24/Rev.1.*

In favour:

Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Chile, China, Colombia, Congo, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gambia, Germany, Ghana, Greece, Guatemala, Guyana, Hungary, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saint Lucia, San Marino, Saudi Arabia, Senegal, Sierra Leone, Singapore, Slovakia, Slovenia, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, the former Yugoslav Republic of Macedonia, Togo, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia.

Against:

Marshall Islands, United States of America.

Abstaining:

Afghanistan, Haiti, Israel.

26. *Paragraph 1 of draft resolution A/C.3/57/L.24/Rev.1 was adopted by 144 votes to 2 with 3 abstentions.*

27. *Draft resolution A/C.3/57/L.24/Rev.1 as a whole was adopted.*

28. **Mr. McCamman** (United States of America), speaking in explanation of vote, said that the United States had joined the consensus on the draft resolution as an expression of its support for the promotion and protection of the human rights of the girl child. However, it disagreed with the thrust of paragraph 7, which could be read as creating obligations for States that were not parties to the international treaties. His delegation had attempted to make it less ambiguous by stating that it understood the intent of the paragraph to be that States parties had to implement the obligations they had assumed on ratifying those treaties. If that was indeed the intent of paragraph 7, then that was what it should say. If not, then it was advocating a new theory of international law, namely that States were bound by treaties merely because they existed and not because States had ratified them; that was a theory without basis in practice or law. In general, the United States was committed to improving the welfare of all children, including the girl child. It had demonstrated that commitment both at home and abroad, particularly in its support for education and health care programmes designed to assist women and girls in countries where they had been disadvantaged, such as Afghanistan.

29. **Mr. Alibabaee** (Islamic Republic of Iran) said that his delegation would have voted in favour of paragraph 1 of draft resolution A/C.3/57/L.24/Rev.1.

Agenda item 106: Programme of activities of the International Decade of the World's Indigenous People (*continued*) (A/C.3/57/L.7 and L.26)

Draft resolution A/C.3/57/L.7: Permanent Forum on Indigenous Issues

30. **The Chairman** drew the Committee's attention, before it took a decision on the draft resolution, to document A/C.3/57/L.26 containing its programme budget implications.

31. *Draft resolution A/C.3/57/L.7 was adopted.*

32. **Ms. Zack** (United States of America) said that her delegation was a firm supporter of the Permanent Forum and had therefore joined the consensus on the

draft resolution. However, it was concerned about the financial implications. The United Nations should make a greater effort to absorb the additional cost of establishing the secretariat of the Permanent Forum and the additional expenditures required for meetings. It also had some questions about some of the estimates of underlying costs. Her delegation intended to study the matter more closely in the Fifth Committee when the revised budget estimates for the biennium 2002-2003 were taken up.

33. **Mr. Tomoshige** (Japan), making a general comment on the draft resolution, said that his delegation understood the need to establish a secretariat unit for the Forum and hold a three-day pre-sessional meeting. It also appreciated the efforts the Secretariat had made to hold down the costs. However, as the contingency fund for the biennium 2002-2003 was nearly exhausted, his delegation believed that those costs should be absorbed within existing resources by redeploying them in accordance with General Assembly resolution 41/213, annex I, paragraph 9.

34. Regarding the statement of programme budget implications (A/C.3/57/L.26), Japan would like to make sure that the Committee did not endorse that statement or accept the two-phase approach the Secretary-General proposed or the need for six secretariat unit posts. Since the Permanent Forum had just begun its activities, it was very difficult for the Committee to decide at that stage how many staff members were needed in the secretariat unit. That decision should be left to the Fifth Committee, which would consider the matter thoroughly when it discussed the financial implications. His delegation intended to participate actively in those discussions.

Draft resolution A/C.3/57/L.27: International Decade of the World's Indigenous People

35. **Mr. De Barros** (Acting Secretary of the Committee) observed that in paragraph 4 (b) of the draft resolution, the General Assembly would request the United Nations High Commissioner for Human Rights, as coordinator for the Decade, to give due regard to the dissemination, from within existing resources and voluntary contributions, of information on the situation, cultures, languages, rights and aspirations of indigenous people and, in that context, to consider the possibility of organizing projects, special events, exhibitions and other activities addressed to the public, in particular to young people.

36. The Secretariat drew the Committee's attention to the fact that in resolution 45/248 B, section VI, the General Assembly had reaffirmed that the Fifth Committee and the Advisory Committee on Administrative and Budgetary Questions were responsible for administrative and budgetary matters.

37. **The Chairman** recalled that when the draft resolution had been introduced, Armenia, Austria, Bolivia, China, Costa Rica, the Democratic Republic of the Congo, El Salvador, Guyana, Italy, Luxembourg, Nigeria, Panama, Peru, Portugal, the former Yugoslav Republic of Macedonia and Venezuela had become sponsors. They were now joined by Antigua and Barbuda, Burkina Faso, Estonia, France, Liberia, Paraguay, Senegal, Suriname, Switzerland and Uruguay.

38. *Draft resolution A/C.3/57/L.27 was adopted.*

Agenda item 109: Human rights questions (*continued*) (A/57/311/Add.1; A/C.3/57/2)

(a) Implementation of human rights instruments (*continued*) (A/53/7 (Parts I and II), A/57/40, 44, 56, 173, 268, 291, 308, 399-400, 445 and 476)

39. **Mr. D'Alotto** (Argentina) said that the international human rights instruments were an expression of the common will of the international community to create a legal framework to guarantee the human rights of all individuals and ensure that States promoted and protected human rights and were accountable for their actions in that regard. The negotiation of optional protocols had made it possible to adapt the instruments to new circumstances. Argentina, because of its history over the last half-century, considered that it was crucial for those international mechanisms to operate effectively.

40. Governments had a responsibility to fulfil the obligations incumbent upon them by virtue of the human rights instruments, including the obligation to make the changes needed in their national and local legislation to bring them into compliance with the norms set out in the instruments and the obligation to submit periodic reports. The United Nations General Assembly, for its part, had a responsibility to review the work of the human rights treaty bodies, to ensure that they had the resources needed to function and to

periodically review how the legal instruments corresponded to contemporary realities.

41. The draft Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which established a mechanism for verifying detention conditions in the States parties, was the product of 10 years of negotiations and was a valuable instrument, which would enhance the efforts of the international community to prevent torture and other cruel, inhuman or degrading treatment or punishment. In response to the reservations of some delegations regarding budgetary or procedural issues, his delegation underscored the importance of the rights protected by the Optional Protocol and recalled that in many parts of the world torture and degrading punishment were still used as a means of interrogation or a disciplinary measure. The international community should therefore make an additional effort and implement a new mechanism that would allow torture to be combated more effectively.

42. In its decision 2001/221, the Economic and Social Council had endorsed the decision of the Commission on Human Rights to establish an inter-sessional open-ended working group with the mandate to elaborate a draft legally binding normative instrument for the protection of all persons from enforced disappearance. The Commission on Human Rights had instructed that working group to prepare the draft taking into account the Declaration on the Protection of All Persons from Enforced Disappearance. The task was of special relevance to Argentina, which committed itself to making every effort to prepare a draft international instrument that would put an end to that type of human rights violation and to impunity.

43. Argentina had included international human rights instruments in its domestic laws and had complied with its obligations to submit reports to the relevant treaty bodies. Those bodies should continue to examine their working methods and propose ways of improving State reporting procedures. The submission of reports should be streamlined so that the treaty monitoring bodies could examine them rapidly and make timely recommendations to the States. In that connection, Argentina welcomed the Secretary-General's initiative, set out in his report on the strengthening of the United Nations: an agenda for further change (A/57/387) regarding the possibility of crafting a more coordinated approach to the activities of the human rights treaty bodies and standardizing their varied reporting requirements. It awaited with interest the proposals which the Office of the High Commissioner for Human Rights would present in that respect.

44. **Ms. Khalil** (Egypt) said that her delegation considered human rights to be universal, indivisible, interdependent and interrelated. The international community should therefore deal with human rights issues in a fair and balanced manner. Cultural, economic and social rights merited the same attention as civil and political rights. Governments had the principal responsibility for protecting and promoting human rights. Any action against territorial integrity or State sovereignty should therefore be rejected.

45. With regard to the draft Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Egypt considered that it was important to combat all forms of torture and had been one of the first countries to accede to the Convention. One of the experts on the Committee against Torture was Egyptian. Egypt had played an active role in the negotiations on the draft Optional Protocol and considered that a consensus formulation could have been found, had it not been for some delegations which, wishing to impose their views, which were contrary to international norms, had hastened to adopt the draft text without regard to the comments of her delegation and other delegations with similar opinions.

46. Her delegation was opposed to the draft in its current form; first, for procedural reasons: no sovereign State could accept that its comments had been ignored and that a unilateral vision had been imposed, as had occurred in some parts of the text and in the general objectives. It had serious reservations about the adoption of the draft Optional Protocol without consensus, because it was against the principle of the universality of human rights and could establish a dangerous precedent.

47. Second, for reasons of substance: her delegation was convinced that the prohibition and prevention of torture should be asserted, but did not consider that it should have priority over other issues, such as sovereignty. In its current form the draft Optional Protocol violated the sovereignty of States and gave the sub-committee which would be established unlimited

authority to make inspections, at any time and in any place, without the prior authorization of the State.

48. The draft did not have the necessary balance between support for national mechanisms to prevent and combat torture and the competence of international mechanisms in that area. The consensus and cooperation of the international community were needed to ensure the success of the international instrument and the new mechanisms it would establish. Unfortunately, that element was lacking in the draft Optional Protocol, which had had a divisive conception and continued to be controversial because it did not respect the opinions and comments of many countries.

49. **Mr. Cisneros** (Mexico) said that the question of elaborating a comprehensive and integral international convention on protection and promotion of the rights and dignity of persons with disabilities was of particular interest to his country. His delegation noted with satisfaction the substantive progress that had been made one year after President Vicente Fox had proposed to the General Assembly that an Ad Hoc Committee should be established to elaborate such a convention and that it had subsequently been established pursuant to resolution 56/168. In order to contribute to the work of the Ad Hoc Committee, Mexico had, in June 2002, with the support of the United Nations, organized a meeting of experts on the future convention. The national and international experts who had participated had had before them a text containing elements for a convention, which had been the result of the joint work of governmental agencies and civil society in Mexico and had served as a basis for a wide-ranging debate not only on that text but also on the principles and guidelines for the elaboration of the convention. The new version of the draft convention had been submitted to the Ad Hoc Committee at its first session, held from 29 July to 9 August 2002.

50. He acknowledged the support of various actors, in particular the sensitivity that had been demonstrated to facilitate the participation of non-governmental organizations in the work of the Ad Hoc Committee, in accordance with decision 56/510, sponsored by the European Union and Mexico. The participation of those organizations was fundamental in order to raise awareness of the topic and their contribution was indispensable if the convention was to be able to provide viable responses to the needs of persons with disabilities. It should be noted also that, on the proposal of Canada, the United States and Mexico, certa n technical conditions had been agreed upon for the United Nations documents and facilities that would enable persons with disabilities to participate in the work of the Ad Hoc Committee. At its first session, the Ad Hoc Committee had had thematic discussions which had proved to be essential to an understanding of how the convention would deal with civil and political rights and economic, social and cultural rights. Another very important result was the integration of persons with disabilities into the delegations participating in the work of the Ad Hoc Committee.

51. Mexico did not claim leadership or primacy in the promotion and protection of the rights of persons with disabilities. The purpose of its efforts to promote the convention was to establish the ideas and initiatives of various countries and non-governmental organizations which had not yet come to fruition and to strengthen the negotiation process, while taking into account the interests of persons with disabilities. It supported the holding of national, regional and world meetings which would contribute to the preparatory process for the next session of the Ad Hoc Committee.

52. **Mr. Gansukh** (Mongolia) said that the progress achieved in the promotion and protection of human rights, one of the greatest achievements of the past century, should serve as a basis for reflection on the future work of the United Nations. The Member States had an important role to play by fully respecting the Universal Declaration of Human Rights and ratifying and implementing the major international human rights instruments. Moreover, the establishment of strong human rights institutions at the national level would ensure that human rights were protected in a sustained manner. Mongolia was a party to over 30 international human rights instruments. In November 2000, it had acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and in 2001 it had signed the two Optional Protocols to the Convention on the Rights of the Child. Mongolia had been one of the first countries to sign and ratify the Rome Statute of the International Criminal Court.

53. The effective implementation of the human rights instruments was an important issue. The Member States continued to adopt the necessary measures to give full effect to them within their respective jurisdictions. Mongolia, prompted by the democratic reform initiated in the 1990s, had amended its legislation to bring it into line with international

standards. For example, according to article 10 of the Constitution, all norms of international treaties to which Mongolia was a party would, upon ratification, be equally binding within its jurisdiction. The commitment of the Government of Mongolia to human rights was further embodied in various national plans of action, the most recent of which was the programme on "Good governance for human security". The National Commission for Human Rights had been established and it was expected to become an efficient watchdog of human rights. Pursuant to a decision taken at the National Human Rights Conference, held in December 2000 with the broad representation of non-governmental organizations, the National Human Rights Action Plan had been launched in May 2001; the main characteristic of the Plan was greater involvement of civil society in its development and implementation.

54. It was clear that greater efforts were needed throughout the world, as well as in Mongolia, to ensure that every individual could enjoy the rights set out in the Universal Declaration. In cooperation with the United Nations country team in Mongolia, the Government of Mongolia was committed to promoting the enjoyment of human rights and improving the living conditions of the Mongolian people through support for democracy and socio-economic development. Mongolia was grateful for the assistance of the Office of the High Commissioner for Human Rights and reiterated its wish to continue to cooperate with it to strengthen national human rights institutions and to develop regional and international cooperation in the field of human rights.

55. *Ms. Leyton (Chile), Vice-Chairman, took the Chair.*

56. **Ms. Kang Kyung-wha** (Republic of Korea) said that her delegation concurred with the Secretary-General's observation that the rise and diffusion of human rights norms and conventions had been one of the truly great achievements of the past century and that the United Nations had been at the centre of those efforts. Her delegation applauded the growing importance of human rights in the overall work of the Organization. The integration of human rights into strategies to promote peace and security and sustainable development should be pursued not only as a guiding principle cutting across the United Nations system but also in national development efforts. That work could be facilitated by the effective implementation of human rights instruments. Her delegation reiterated its support for the six core human rights instruments and its commitment to abide by its treaty obligations. Her Government had recently submitted its eleventh periodic report to the Committee on the Elimination of All Forms of Racial Discrimination and would shortly submit its second periodic report to the Committee against Torture.

57. Unfortunately, the integrity of the treaty bodies could be undermined by non-reporting, backlogs and lack of follow-up. The problem must be tackled from both ends: easing the burden on States parties and underscoring the importance of meeting treaty obligations, while enhancing effectiveness in the deliberation of, and follow-up to, the recommendations of the treaty bodies. Her delegation supported the idea of streamlining the work of the treaty bodies and promoting greater coordination among them. It welcomed the task entrusted to the High Commissioner for Human Rights of producing recommendations in that regard, in close consultation with the treaty bodies. The exploration into ways of enhancing their effectiveness should fully respect the integrity and unique requirements of each body.

58. The year 2001 had given rise to numerous human rights instruments. In the Republic of Korea, the national human rights committee, established in November 2001, had begun its work with excellent results. To date, it had received more than 2,000 complaints and had settled or was in the process of settling half of them. At the international level, the Ad Hoc Committee to consider proposals on a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities had held its first meeting. The General Assembly was expected to adopt a new human rights norm at the current session: an optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Republic of Korea had voted in favour of its adoption at the substantive session of the Economic and Social Council. The decision had been the result of much debate among the relevant ministries in her country and reflected its resolve to participate in the efforts of the international community to enhance human rights standards and its commitment to the work of translating the optional protocol into action.

59. **Mr. Schurti** (Liechtenstein) said that the draft Optional Protocol to the Convention against Torture

marked a significant step forward in the global fight against torture. After 10 years of deliberation and negotiation, the General Assembly was in a position to adopt the best possible text, having benefited from the recommendations of the Commission on Human Rights and the Economic and Social Council. His delegation welcomed the protocol. It created no new standards or new instruments but instead established a subcommittee of independent experts to assist States in implementing the provisions of the Convention against Torture. Despite the prohibition of torture under customary law and various regional and international instruments, violations continued to occur around the world. The new protocol addressed a long-standing issue in precise terms and thus added to an effective implementation of the prohibition of torture. Furthermore, by focusing on the prevention of torture, it contributed to the creation of a culture of prevention in the sphere of human rights, which was a significant achievement.

60. The remaining concerns with respect to the protocol seemed to centre on the financing of the subcommittee. It had been suggested that only States parties to the instrument should bear the costs incurred and that no funding should come from the regular budget. His delegation disagreed with that view, since the provision contained in article 25 was consistent with General Assembly resolution 47/111, which clearly stated that treaty bodies should receive funding from the United Nations regular budget, a provision that was reaffirmed in the Vienna Declaration and Programme of Action. Furthermore, the provisions concerning funding were consistent with the spirit of the Organization, for which human rights were a core activity. Funding from the regular budget would ensure that all States, including those with limited financial resources, ratified the protocol, in keeping with the goal of achieving universal ratification of human rights instruments.

61. Universal ratification of all six core human rights treaties had to remain a priority, but the focus should also be on implementation and development of the impressive set of legal instruments in the realm of human rights. A good example in that regard was the draft Optional Protocol to the Convention against Torture. Liechtenstein was a party to the core treaties of the United Nations, was preparing to accept the communications procedure under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination and had already accepted the procedures for individual communications provided for under the other human rights treaties. The work of the treaty bodies was of crucial importance, not only to the implementation of the human rights treaties in general, but also in each State. Liechtenstein had benefited from the dialogue with the treaty bodies. The recommendations made by the Committee on the Elimination of All Forms of Racial Discrimination had been introduced into the national plan of action to eliminate racial intolerance, while many of the recommendations of the Committee on the Elimination of All Forms of Discrimination against Women had inspired political and legislative initiatives.

62. The reporting obligation could strain the human resources of small States. The production of core documents alleviated the problem, but there had to be other ways of facilitating the dialogue between States parties and treaty bodies without diminishing the quality of the work. The efforts to rectify the shortcomings of the current system, as outlined in the Secretary-General's report on the strengthening of the United Nations (A/57/387), were encouraging. In particular, the idea that committees should coordinate better their activities was interesting. In that context, his delegation had been glad to learn of the first inter-committee meeting of the human rights treaty bodies in June 2002.

63. **Mr. Zenna** (Ethiopia) said that Ethiopia's commitment to the protection and promotion of human rights was stated unequivocally in the 1994 Federal Constitution. The Constitution, the principal elements of which were derived from the principles contained in international human rights instruments, laid the foundation for a democratic order that would pave the way for the rule of law and full respect for and enjoyment of human rights. With regard to State institutions, the Government had taken steps to establish an independent judiciary with organized structures at the federal and state levels to ensure the implementation of the human rights provisions of the Constitution and of the international covenants to which Ethiopia was a party. Legislation had been adopted recently to establish the Human Rights Commission and the Office of the Ombudsman. Legislation had also been enacted to protect vulnerable groups, such as women, children and ethnic minorities. For instance, the aim of the national policy on women was to ensure their full participation in the political,

economic, social and cultural life of the country. It should also be recalled that Ethiopia had accepted and facilitated the opening of a subregional office of the Office of the United Nations High Commissioner for Human Rights. Moreover, the Government had developed a code of conduct that provided a framework for collaboration with civil society, which was essential for the protection of human rights. It had resulted in some notable achievements in awareness-raising and advocacy programmes.

64. He reiterated that national efforts needed to be backed by external financial and technical assistance in order to strengthen national human rights institutions, in particular for the training of judiciary and law enforcement officials.

65. **Ms. Tomič** (Slovenia) said that, even though it was universally condemned as one of the worst human rights violations, torture was still practised throughout the world. Slovenia considered that no effort should be spared to combat it and therefore supported the adoption, during the current session of the General Assembly, of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, an instrument that was a necessary and indeed long overdue step towards the prevention and elimination of torture. Regional experience, such as the work of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, demonstrated the usefulness of an international mechanism to complement national institutions in providing the necessary oversight of places of detention and imprisonment. Her delegation considered that the functioning of the new instrument should be financed from the regular budget of the United Nations, as were the other bodies created by the human rights treaties.

66. It was necessary to work towards the universal ratification of the six core human rights instruments of the United Nations, all of which Slovenia had already ratified, with the consequent effects on domestic legislation. States should comply fully with their obligations under international treaties, including the timely presentation of periodic reports. The process of reporting and the ensuing dialogue with the treaty monitoring bodies permitted verification of effective implementation at the national level. It would, however, be useful to streamline the reporting process with a view to reducing the considerable burden on States parties. In that connection, her delegation welcomed the first inter-committee meeting of the human rights treaty bodies held in June 2002, at which proposals had been made to enhance collaboration among those bodies during the consideration of States parties' reports.

67. To improve the quality of reports and reduce the delay between the submission of a report and its consideration, the bodies concerned could include cross-references in their comments and formulate joint general comments and recommendations. They could also adopt procedures to follow up on the implementation of final observations, such as the procedure adopted by the Human Rights Committee, including the recent appointment of a Special Rapporteur for follow-up on concluding observations, and the new follow-up mechanism adopted by the Committee against Torture. The lists of issues and questions addressed to a State party should be submitted well in advance of the examination of a report in order to allow a State to give thorough replies. The concluding observations should be precise and practical so as to help States parties to implement them. Likewise, realistic time should be allowed for their implementation, particularly where a change in domestic legislation was required. Thematic meetings of the treaty bodies should be encouraged as they contributed to the enhancement and transparency of the protection of human rights in a given area.

68. States should ensure strict compliance with the obligations stemming from the human rights instruments. Treaties should be implemented in their entirety and States should, as far as possible, avoid resorting to reservations. Moreover, if they did make reservations, they should ensure that they were consistent with the scope and intent of the instrument and were formulated as precisely and narrowly as possible. States should also increase the level of acceptance of the individual complaint procedures. In that connection, just before the Durban Conference, Slovenia had lodged a declaration under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, thus recognizing the competence of the Committee on the Elimination of Racial Discrimination to consider individual communications claiming violations of the rights established in the Convention.

69. Her delegation supported the establishment of new standards wherever existing instruments did not satisfactorily regulate human rights concerns. For

example, there was a lacuna in international law regarding protection from enforced disappearance and her delegation would play an active role in the work of the intersessional working group established by the Commission on Human Rights for the elaboration of an instrument on that issue.

70. **Mr. Hussain** (Pakistan) said that, at the World Conference on Human Rights, held in Vienna in 1993, universal respect for human rights and fundamental freedoms had been envisioned as a necessary precondition for international peace and security. The Vienna Declaration held that peoples had an inalienable right to political self-determination and could take any legitimate action to realize it. It also affirmed the universal right to development, recognized that international cooperation was necessary to achieve it and emphasized the importance of alleviating poverty, which was an impediment to the full enjoyment of human rights. It further affirmed that the right to freedom from torture should be protected in all circumstances, including in times of internal or international disturbance or armed conflict, and insisted on the need to eliminate impunity. The Vienna Declaration and Plan of Action had marked the consolidation of progress in the promotion of human rights, which had culminated in the establishment of the Office of the United Nations High Commissioner for Human Rights. As the Secretary-General stated in his report on the strengthening of the United Nations (A/57/387), the promotion and protection of human rights was a bedrock requirement for the realization of the Charter's vision of a just and peaceful world and no effort should be spared to promote respect for all internationally recognized human rights and fundamental freedoms. The protection of human rights was possible only if a neutral and objective political criterion was adopted to prevent very large or very powerful States from obstructing the course of justice, as unfortunately was continuing to occur in many parts of the world.

71. The people of Jammu and Kashmir were unable to exercise their right to self-determination and were victims of occupation and brutal repression by India, which continued to perpetrate acts of State terrorism on the pretext of cooperating in the counter-terrorist struggle of the international community, when its real intention was to repress and denigrate the inhabitants of Kashmir who were fighting for their freedom. Force and fraud had been the principal instruments used by India to legitimize its occupation of Jammu and Kashmir. Once again, sham elections had been held, controlled by 700,000 Indian soldiers and without the presence of international observers. The Jammu and Kashmir Coalition of Civil Society, an Indian non-governmental organization which had monitored the process, stated in its report that the people had boycotted the elections, that the security forces, on instructions from the authorities, had coerced the people to cast their votes, and that the people of Jammu and Kashmir could not see the elections as a substitute for the free and impartial plebiscite envisaged in the resolutions of the Security Council.

72. They were not, however, the only victims of human rights abuses by India. The militant wing of the Bharatiya Janata Party (BJP) or Indian People's Party, composed of Rashtriya Swayamsevak Sangh (RSS), Vishwa Hindu Parishad (VHP) and Bajrangdal, had, under official patronage, engaged in genocide, ethnic cleansing and pogroms against the Muslims. The carnage at Gujarat had taken a toll of over 2,000 Muslim lives, and arson and attacks on members of that minority, who were living under the constant threat of another catastrophe, continued. International sources had confirmed that the genocide in Gujarat had been financed by Indian communities in the United States of America, the United Kingdom and many other countries. The funds contributed had served to buy Trishol missiles and other weapons used in the Muslim bloodbath. In order to bolster his sagging popularity as a candidate in future elections, the Chief Minister of Gujarat, Narindra Modi, and the leadership of VHP continued to incite violence against the Muslim community.

73. States which, like India, were in grave breach of the provisions of the Charter, the resolutions of the United Nations and their treaty obligations should be subjected to sanctions and the jurisdiction of special criminal tribunals. In accordance with the Charter and international humanitarian law, the people of Kashmir were entitled to receive the support of the international community in order to realize their inalienable rights to self-determination, life, freedom from torture, freedom from fear and persecution, and dignity. The resolution of the dispute over Jammu and Kashmir was imperative in order to ensure lasting peace and security in South Asia, which had been held hostage to India's militaristic and hegemonic designs, and would enable over 1 billion poor people to realize their right to

development. The international community was obliged under the Charter and the Vienna Declaration to act firmly to resolve the dispute in accordance with the wishes of the people of Kashmir.

74. *Mr. Wenaweser (Liechtenstein) resumed the Chair.*

75. **Mr. Kaminek** (Czech Republic) said that the right to freedom from torture was recognized in most international human rights instruments adopted over the past 50 years, which prohibited the States parties from using or tolerating torture in any circumstances. There was even a special convention on the issue. However, that right continued to be violated in all parts of the world. It therefore appeared that torture could not be eliminated solely by prohibitions, monitoring and ex post facto investigations and that isolated action at the national level was not sufficient. Those concerns had led to the elaboration of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the provisions of which relating to international cooperation and prevention could pave the way for a gradual improvement of the overall situation and the social climate so that eventually no room would be left for torture. Much time and money had been spent on the negotiations on the Optional Protocol. It should be emphasized that the Protocol did not focus on condemnation or investigation, but solely on the prevention of torture. On the basis of its experience, the Czech Republic was convinced that the Protocol would make a very practical contribution to the prevention of torture. Torture caused enormous suffering and destroyed the very essence of human existence: dignity. There could therefore be no compromises — financial or other. The adoption of the Optional Protocol at the current session would be a huge step towards the total elimination of torture and would demonstrate the importance which the United Nations attached to the dignity of vulnerable people and its commitment to protect them from torture.

76. **Ms. Tinangon** (Indonesia) emphasized the importance of the international human rights instruments and said that, during her country's transition to democracy, one of the priorities of the Government had been to strengthen the protection of the fundamental human rights of citizens. To that end, the National Plan of Action on Human Rights for 1998-2003 had been adopted. The Plan had established a timetable for the achievement of goals in four areas: the ratification of international human rights instruments, education on human rights issues, implementation in priority areas concerning human rights, and the domestic implementation of international human rights instruments. A second five-year plan of action for the years 2003-2008 was being drafted and would build on the success of the first. In addition, the Government was preparing to ratify the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, which had been formally approved by the President and would soon be approved by the parliament. Since the adoption of the first Plan in 1998, Indonesia had become a party to several major international human rights instruments and was harmonizing existing legislation with those instruments or, where necessary, adopting new legislation. Thus Human Rights Law 39/1999 and Law 26/2000 had laid the groundwork for the protection of human rights in Indonesia and reflected the commitment of the Government to protect the rights of the people. In just a short time Indonesia had made much progress in the establishment of institutions which in other countries had evolved over decades or even centuries. For example, the National Commission on Human Rights (Komnas HAM), which was independent of the Government, had been empowered by Human Rights Law 39/1999 to subpoena witnesses, including government officials, and physical evidence of human rights abuses. Pursuant to Law 26/2000, human rights courts had been established.

77. Each country was entitled to determine its own priorities in the promotion of human rights, in accordance with its interests, culture, customs and resources. Emerging democracies required the moral, technical and financial support of the established democracies, but the face of democracy must be shaped in the national image. Her Government was trying to build a safer, securer future for its citizens, but, as demonstrated by the terrorist attack in Bali against innocent civilians on 12 October 2002, there were forces intent on thwarting it. The Government was endeavouring to settle conflicts within Indonesia by peaceful and democratic means and to conduct its external relations through dialogue. It ardently desired to join with the international community in fighting terrorism, which was the true threat to human rights and human life. With respect to the reporting mechanisms under international human rights instruments, it was concerned about various

deficiencies, especially the lack of standardization of procedures among the various monitoring bodies, and would like to see the situation remedied so that the burden on the reporting countries was reduced.

78. **Mr. Alabi** (Nigeria) said that, since the advent of democracy in Nigeria, the Government had rededicated itself to improving the human rights situation, in keeping with its genuine resolve to change past records on human rights. Many bills had been submitted to the National Assembly for the purpose of ratifying international human rights instruments. The ratification of the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, together with the strict observance of the Convention on the Rights of the Child, were among the steps taken to consolidate policies and actions for the promotion and protection of the rights of children.

79. Efforts continued to promote positive actions for the advancement of the rights of women, pursuant to the Convention on the Elimination of All Forms of Discrimination against Women. Policies had been adopted and mechanisms put in place at all levels to achieve gender mainstreaming and the practical involvement of women in politics and decision-making.

80. With respect to the Shariah judgement which had generated so much concern about the human rights situation in Nigeria, President Olusegun Obasanjo had made several statements to allay fears and give assurance that the judgement in question would not be executed. Given the thoroughness of the Nigerian legal system, no one could be stoned to death. Nigeria was fully conscious of its obligations under the human rights instruments and would continue to uphold respect for the rule of law and due process. The Government was therefore committed to respect for the supremacy of the Nigerian Constitution, which allowed the federating states the freedom to make laws in specific areas determined by the Constitution, provided that they were not inconsistent with its provisions.

81. While recognizing the need for the realization of civil and political rights through commitment to democracy, good governance and the elimination of corruption, his delegation emphasized the importance of also devoting attention to the achievement of social, economic and cultural rights and development, which called for the provision of good health services, functional education, employment and shelter, without which civil and political rights would amount to nothing.

82. The capacity of developing countries to promote human rights was constrained by such factors as inadequate technology, poor communication facilities, poverty, ignorance and diseases like tuberculosis, malaria and HIV/AIDS, which continued to claim the lives of the active population in developing countries, with dire consequences for the economy. That situation constituted a serious human rights constraint and should engage the Committee's attention. Terrorism was also a serious hindrance to the promotion and enjoyment of human rights and economic development at both national and international levels. His Government was opposed to terrorism and reaffirmed its belief that the conduct of all actors in international relations must conform to the tenets of international law. It therefore urged the international community, through the United Nations system, to address all factors that encouraged terrorism. It was imperative to embrace the virtue of tolerance and abide by the principles of justice, equality and equity for all in conducting all relations, if there was to be lasting peace and security in the world.

83. Pursuant to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Nigeria continued to prohibit the use of torture and inhuman treatment on its nationals and would continue to adopt measures to promote national reconciliation in its multireligious, multi-ethnic society and to cooperate with the United Nations and other entities in the fight to eliminate torture and advance the promotion of the rights and dignity of all persons without discrimination.

84. His delegation shared the view that each State had the obligation to implement all human rights instruments within its jurisdiction. Nonetheless, it would be more meaningful to continue to cooperate in the formulation of human rights instruments with objectivity, in order to achieve the understanding and consensus necessary for wide acceptability, thereby facilitating the adoption of vital human rights instruments. He therefore urged Member States to cooperate to realize that noble goal.

85. **Mr. McCamman** (United States of America) said that his country condemned torture unequivocally, had

fought to eliminate it throughout the world and had led international efforts to put pressure on Governments to publicly condemn torture, to enact appropriate legislation, to investigate and prosecute abusive officials, to train law enforcement officers and medical personnel, and to provide compensation and rehabilitation for victims. The United States had strongly supported the work of the United Nations Special Rapporteur against torture, was a party to the Convention against Torture and was the single largest donor to the Voluntary Fund for Victims of Torture, to which it had contributed $5 million during fiscal 2002.

86. His delegation regretted the manner in which the draft protocol had been put to the vote in the Commission on Human Rights and subsequently in the Economic and Social Council. It had been agreed in General Assembly resolution 41/120 that new human rights treaties should attract broad international support. The votes in the Commission on Human Rights and the Economic and Social Council had demonstrated that there was substantial disagreement regarding the draft protocol rather than broad international support for it.

87. Nonetheless, his delegation strongly supported efforts to enhance implementation of the existing Convention against Torture. In the Commission on Human Rights it had submitted an alternative text for the protocol which would have enabled the existing Committee against Torture to make voluntary visits to States parties as follow-up to their reports. It had also informally indicated a willingness to consider the inclusion of an "opt-in" clause permitting ad hoc visits. Regrettably, that effort had proved unsuccessful.

88. The United States opposed the draft protocol on both substantive and financial grounds. The investigative mechanism provided for could not carry out ad hoc or targeted visits of any kind and was permitted only a minimal follow-up visit, thereby raising doubts about its potential effectiveness. Moreover the United States could not become a party to an instrument that prohibited reservations. His country was also opposed to providing funding through the United Nations regular budget. As with other optional treaties, the States parties to the protocol should pay the implementation costs, and non-parties should not be required to share the financial burden. The United States could not accept the proposed financing scheme of mandatory assessments on all States Members of the United Nations. Many Member States could not meet their current obligations. The estimated annual cost of the new mechanism was substantial and would have a significant impact on the United Nations regular budget. Forcing all States to pay when many would not become parties to the protocol was unfair. Moreover, the protocol would compete with the Committee against Torture and other human rights mechanisms for limited United Nations resources and thereby weaken existing measures to combat torture.

89. The proposal that the protocol should be financed by the States parties had raised the objection that a dangerous precedent for human rights instruments would thereby be created. But the contrary was true. General Assembly resolution 47/111, which provided for funding of the six existing treaty bodies, had been adopted when each of those bodies had enjoyed widespread international acceptance. A dangerous precedent was being set by supporters of the protocol, who were trying to arrange regular budget financing for a treaty that was conspicuous by its lack of widespread acceptance.

90. His delegation agreed that the protection of human rights should not be dictated by financial considerations. Because of its abhorrence of torture, the United States was seeking and had sought the strongest means to end that terrible practice. The draft protocol did not accomplish that purpose. The proposed regime represented a potential diversion of resources from the work of other, more results-oriented bodies, including the Committee against Torture. Accordingly, the United States would submit an amendment to the Costa Rican draft resolution in order to reflect its concerns regarding the proposed funding of the protocol.

91. **Ms. Lewis** (International Labour Organization) said that migration today was about work. The number of countries employing foreign labour had increased from 42 to 90 between 1970 and 2000 and the issue was now being acknowledged as a major concern for employers, workers and ministries of labour. Many Governments had recognized the need to modernize and improve their respective legislation, policies and practices. Migration involved employment and social protection issues, but it also required anti-discrimination and integration initiatives.

92. Isolated measures could not ensure decent treatment for migrant workers or resolve tensions

between the sometimes differing interests of national and foreign workers. The complexities of migration required a comprehensive framework of legislative measures to reconcile the benefits and challenges of migration with the dignity and rights of migrants. Most of the elements for such an approach were already incorporated in existing ILO and United Nations Conventions. The International Labour Organization welcomed the imminent entry into force of the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which, combined with the two ILO Conventions on migrant workers (Nos. 97 and 143), on which the United Nations Convention was modelled, provided a comprehensive legal framework for migration, the treatment of migrants, inter-State cooperation and the prevention of exploitation and irregular migration.

93. The three Conventions provided a wealth of information and guidance on how to manage migration and develop a migration policy. In particular, they offered countries guidelines on how to establish a transparent labour migration admissions system to measure and respond to legitimate needs for foreign labour, while taking into account domestic labour demands. The establishment of a system of legal labour migration channels could help to reduce irregular migration and the exploitation, trafficking and smuggling of migrants. It was estimated that, of the 80 to 90 million migrant workers and their dependants living in countries other than their own, 15 per cent were working on an irregular basis, owing partly to the increasing commercialization of the private recruitment process, but also to a growing practice in developed countries of applying unduly restrictive immigration policies.

94. A second basic element was a standards-based approach to the management of migration which protected the basic rights of all migrants and combated exploitation and trafficking. Experience in various countries had demonstrated that enforcement of minimum labour and workplace standards served as an effective deterrent to irregular migration and employment by discouraging the exploitation that made the utilization of unauthorized foreign workers attractive to certain employers.

95. A major incentive for the exploitation of migrants, and ultimately forced labour, was the lack of application and enforcement of labour standards in countries of destination. A third basic element was thus the enforcement of minimum national employment standards to protect migrant and non-migrant workers and to criminalize abuse of persons. A necessary complement was monitoring and inspection in such areas as agriculture, domestic work, the sex industry and other sectors of "irregular" employment, in particular to identify and prevent the exploitation of young women and children.

96. A final element was the establishment of mechanisms for consultation and coordination with social partners in the elaboration and practical implementation of migration policies, in order to ensure coordination within the government and with civil society in all areas of concern, such as the supervision of the recruitment and administration of admissions of foreign workers, the training of public service and law enforcement officials, recognition of educational equivalencies and the provision of social and health services for migrant workers and recovery services for the victims of trafficking.

97. The feminization of migration and the predominance of abuse of women migrants required the elaboration of gender-sensitive migration policies which recognized gender equality as integral to the process of policy-making, planning and programme delivery and ensured not only equal treatment but also equal outcomes.

98. The International Labour Organization had participated actively in the Global Campaign launched in 1998 to promote ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and it looked forward to the twentieth ratification so that the Convention could soon enter into force.

The meeting rose at 5.45 p.m.